



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/168651

PRELIMINARY RECITALS

Pursuant to a petition filed September 09, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Marathon County Department of Social Services in regard to FoodShare benefits (FS), a telephonic hearing was held on November 03, 2015, at Wausau, Wisconsin. At the request of petitioner, a hearing set for October 7, 2015 was rescheduled.

The issue for determination is whether the county agency correctly discontinued the petitioner's FoodShare (FS) benefits effective October 1, 2015, due to failure to timely verify his employment and income to the county agency.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner's Representative:

[REDACTED], girlfriend of petitioner
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED], ESS
Marathon County Department of Social Services
400 E. Thomas Street
Wausau, WI 54403

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Marathon County.
2. The petitioner received FoodShare (FS) benefits for a household of one.
3. The petitioner has been in and out of jail during the past 1½ years.

4. On August 14, 2015, some unconfirmed person contacted the county agency, and alleged that petitioner was working as a mechanic in Abbotsford, WI, but did not report that job to the agency.
5. The county agency sent an August 17, 2015 Notice of Proof Needed to the petitioner stating that petitioner was required to verify his employment and income to the agency by August 26, 2015. Exhibit 2.
6. The petitioner failed to provide the verification to the agency by August 26, 2015.
7. The county agency sent an August 27, 2015 Notice of decision to the petitioner stating that his FS benefits would discontinue effective October 1, 2015, due to failure to provide verification of his employment and income to the agency. Exhibit 1.
8. The agency sent a fraud referral to O'Brien and Associates to determine if petitioner was employed and his income. O'Brien informed the agency on September 22, 2015 that petitioner had no employment, but that he resides with his parents in their home and they prepare and eat their food together. Exhibit 4.
9. The petitioner has resided in his parents' ([REDACTED]) home since about April, 2015, and does not pay any rent to his parents.
10. The county agency sent a September 23, 2015 Notice of Action Needed to the petitioner stating that he was required to provide verification of his household composition (possibly adding his parents and their income to his FS group) regarding his FS benefits by the deadline of October 2, 2015. Exhibit 3. The petitioner did not timely provide such verification to the agency.

DISCUSSION

When dealing with the issue of the provision of information by a household, there is a clearly delineated process and a case may not be denied or **discontinued** unless those procedures are followed. That process is to specify in writing, what information is needed, and that the client has no less than a specific period of time in which to provide it. Generally that period of time is 30 days. However, in cases involving application or review, where the 30-day processing limit would not permit this much time, the agency is to allow no less than 10 days. Furthermore, the agency is required to assist the client when the client runs into difficulty in obtaining the needed documents. (See 7 C.F.R. §273.12(c); Income Maintenance Manual (IMM), Ch. I, Part C, 5.1.0).

For the purpose of these types of hearing, a case may only be closed, or denied, for a refusal to provide information, or for failure to provide **requested verification** within the specified period, after a written request.

During the November 3, 2015 hearing, and in its exhibits, the county agency representative, ESS [REDACTED], established that the county agency correctly discontinued the petitioner's FS effective October 1, 2015, due to his failure to timely verify his employment and income, as requested by the agency in Exhibit 2. See Finding of Fact #5 above. The petitioner was represented at the hearing by his girlfriend, [REDACTED], who was unable to refute the agency's testimony or documentation that petitioner's employment and income must be verified in order for the agency to determine whether petitioner continued to be eligible for any FS benefits.

In addition, the hearing record indicated that petitioner failed to timely report to the agency that he was residing with his parents in their home, and purchased and shared food with his parents. See Findings of Fact #8 - #10 above. Thus, the petitioner's eligibility for FS is also questionable until he provides accurate household composition and income information to the agency regarding his FS group. See Finding of Fact #10 above. Based upon the hearing record, petitioner failed to timely provide the requested income/employment verification to the agency. Furthermore, petitioner did not establish any good cause for failing to timely provide the requested employment/income verification. Accordingly, for

the above reasons, I conclude that the county agency correctly discontinued the petitioner's FoodShare (FS) benefits effective October 1, 2015, due to failure to timely verify his employment and income to the county agency.

CONCLUSIONS OF LAW

1. The petitioner failed to timely provide required verification of his earned income and employment, and did not establish any good cause for such failure.
2. The county agency correctly discontinued the petitioner's FoodShare benefits effective October 1, 2015, due to petitioner's failure to provide to his required employment/income verification needed to determine petitioner's continued FS eligibility and benefits.

THEREFORE, it is

ORDERED

The petition for review herein be and the same is hereby Dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 23rd day of November, 2015

\sGary M. Wolkstein
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 23, 2015.

Marathon County Department of Social Services
Division of Health Care Access and Accountability
[REDACTED]